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10/018,336	10/30/2001	Bernhard Lettmann	IN-5530	2515
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EXAMINER				
ASINOVSKY, OLGA				
ART UNIT		PAPER NUMBER		
1796				
NOTIFICATION DATE		DELIVERY MODE		
12/24/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/018,336

Applicant(s)

LETTMANN, BERNHARD

Examiner

OLGA ASINOVSKY

Art Unit

1796

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☒ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☒ Other: Attachment.

/Randy Gulakowski/
Supervisory Patent Examiner, Art Unit 1796

Continuation of 3. NOTE: Applicants change range limitation from 10 - 89% by weight of water to 20 - 89% by weight water for (a23) without any motivation and effect on the resulting composition. New consideration will require, the proposed amendment will not be entered. There is no cancellation of the claims at the present amendment. Remarks of 12/11/2008 have been considered. Argument is that Reusmann does not disclose claimed aqueous module (II). Claimed aqueous color module (II) is expected in Reusmann invention. Reusmann discloses a water-dilutable coating composition, which can be diluted with water. Binders include polyurethane resins and amino resins; and, can also include water-thinnable polyacrylic resins or water-dispersible polyester resins, column 4, lines 26-55. A polyacrylate thickener in water is disclosed at column 16, lines 9-10. Water in the amount of at least 10% by weight is expected. In addition the base colors component (A) comprises a plurality pigment-containing base colors, column 12, lines 1-7 and column 13, lines 7-17. Component (B) comprising water and a binder, column 17, lines 5-6, which is claimed varnish module (III). A rheology control additive for the present claim 22 is readable in the reference at column 11, line 1. Reusmann does disclose claimed process for preparing water-dilutable coating composition, columns 17-18, claims 12-14. The viscosity is adjusted by adding deionized water, column 16, lines 22-23 for the purposes for obtaining the desired coating property and wherein an additional pigment would be expected to control the desired color effect. Applicants arguments are not persuasive.

Applicant requests clarification as to how secondary reference to Schwarte provides any of the missing limitations, motivation or expectation of success that Reusmann fails to provide. First, Reusmann does not fail. An aqueous color module (II) comprising binder, pigment and water is expected in Reusmann invention as discussed above. Because any additional compound as a tinting base color comprising water-dilutable binder and water can be added to control or obtaining desired color effect and viscosity of the coating composition. Schwarte discloses polyurethane-modified polyacrylate which is suitable for producing aqueous pigmented coating material. Adding water-dilutable/water-thinnable binder in Schwarte invention is expected to modify water-dilutable coating composition in Reusmann invention and the same binder is readable in both inventions.

Applicants argue that there is no suggestion or motivation for the combination of Kawakami with Reusmann, nor is there a reasonable expectation of success. Argument is that Kawakami has failed of "separately stored mixing modules differing in material composition and function." And, therefore, Kawakami is not relevant invention. Kawakami discloses a water-soluble polyamidopolyurea binder, conventional pigment and water for producing an aqueous coating composition. Both reference disclose the same utility of using an aqueous coating composition. Additional binder, water and colorant is expected in Reusmann invention. Adding additional binder, water and pigment would have been obvious with reasonable expectation of success for producing an aqueous coating composition in Reusmann invention. The rejections of record have not been withdrawn.